



Kazakhstan

Country Reports on Human Rights Practices - [2004](#)

Released by the Bureau of Democracy, Human Rights, and Labor
February 28, 2005

The Constitution of Kazakhstan concentrates power in the presidency. President Nursultan Nazarbayev was elected to a 7 year term in a 1999 election that fell far short of international standards. The Constitution permits the President to control the legislature and judiciary, as well as regional and local governments; changes or amendments to the Constitution require presidential consent. The law allows the President to retain certain controls over policy and a seat on the Security Council after he leaves office. The Constitution limits Parliament's powers by precluding it from appropriating state money or lowering taxes without executive branch approval, although Members of Parliament (M.P.s) have the right to introduce legislation.

Parliamentary elections in September and runoff elections in October were in some respects an improvement over the previous elections; however, they fell short of international standards and featured numerous irregularities. Although opposition party Ak Zhol won one seat in September's Mazhilis (the lower house of Parliament) elections, party leaders declined the seat to protest what they characterized as election fraud. As a result, no opposition parties were represented in the Mazhilis following the elections. The judiciary remained under the control of the President and executive branch, and corruption remained systemic.

The Committee for National Security (KNB) is responsible for national security, intelligence, and counterintelligence. The Ministry of Internal Affairs (MVD) supervises the police. Civilian authorities maintained effective control of the security forces. Members of the security forces committed human rights abuses.

The country continued to move towards a market-based economy driven by energy and mineral resources. The population was approximately 15.4 million. During the year, approximately 16 percent of the population lived below the poverty line. Inflation was 6.7 percent, and the official unemployment rate was approximately 8 percent during the year. Wage growth exceeded inflation. Real gross domestic product grew by 9.3 percent during the year.

The Government's human rights record remained poor, and it continued to commit numerous abuses. The Government severely limited citizens' right to change their government and democratic institutions remained weak. On some occasions, members of the security forces, including police, tortured, beat, and otherwise mistreated detainees; some officials were punished for these abuses. Prison conditions remained harsh; however, the Government took an active role in efforts to improve prison conditions and the treatment of prisoners. The Government continued to use arbitrary arrest and detention and to selectively prosecute political opponents; prolonged detention was a problem. Amendments to several laws governing the authority of procurators further eroded judicial independence. The Government infringed on citizens' privacy rights.

The Government continued to restrict freedom of the press. There were instances of Government harassment of independent media. As a consequence, some media outlets closed or remained closed, and many journalists practiced self censorship. The Government took positive steps to improve political participation by registering opposition political parties, some of which had previously been denied registration, before the September 19 parliamentary elections. The Government restricted freedom of assembly and association and limited democratic expression by restricting political party demonstrations and rallies. Freedom of religion improved during the year. National and regional officials worked to correct incidents when local authorities harassed nontraditional religious groups or their members; as a consequence, there were few incidents reported during the year. Some human rights observers reported that the Government monitored their activities. Violence against women, including domestic violence, was a serious problem. Discrimination against women, persons with disabilities, and ethnic minorities remained problems. The Government discriminated in favor of ethnic Kazakhs. Trafficking in persons, primarily women trafficked for sexual exploitation, was a problem, which the Government took steps to address. Workers' rights were restricted, and child labor persisted in agricultural areas.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of political killings by the Government or its agents; however, some conscripts died as a result of military

hazing and mistreatment. Military hazing was a serious problem that not only led to deaths as a result of mistreatment but also resulted in some conscripts committing suicide (see Section 1.c.). The Government took some steps to prevent or reduce hazing through education and reforms aimed at professionalizing the military; however, problems remained.

On June 15, conscript Nurbol Toyanov died after having served only 5 days in his military unit. An investigation determined that older soldiers routinely beat and humiliated new conscripts in the unit. Three sergeants in the unit were convicted for causing Toyanov's fatal injuries, and they received sentences that ranged from 18 months of service in a disciplinary battalion to 6 years in prison.

On July 16, according to press reports, conscript Asylbek Zhumanov died under mysterious circumstances with the official cause of death listed as a suicide; however, the case was investigated as a homicide. A military police investigation led to charges against several fellow-conscripts, who were convicted of hazing that resulted in Zhumanov's death. Six older soldiers from Zhumanov's military unit were convicted of murdering Zhumanov; one soldier received a suspended sentence on appeal, while the other 5 soldiers received sentences ranging from 2 to 5 years in prison.

On July 16, media reported the suspicious deaths of two brothers, who were conscripts in separate military units. Azamat Brimzhanov died after he was beaten severely in a hazing incident. Two sergeants from his unit were detained as suspects. In a separate incident, his brother, Yerbolat Brimzhanov, jumped out of the fourth floor window of his barracks and died. In court, Yerbolat Brimzhanov's fellow-conscripts testified that he had been beaten repeatedly and severely for over 2 weeks. In August in Sary Ozek, Almaty region, 8 fellow conscripts were convicted and sentenced to 8 to 10 years in prison for hazing that caused the death of Yerbolat Brimzhanov. Two sergeants in the unit were dismissed from the army; no criminal charges were brought against them.

No charges had been brought by year's end in the case of Daniyar Nagaybayev, a private who died in May 2003. The press reported that Nagaybayev's sergeant killed him while disciplining him for disobedience.

No arrest had been made at year's end in the 2001 killing of Dilbirim Samsakovaya, a well-known Uighur community activist.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices; however, police and prison officials at times tortured, beat, and otherwise abused detainees, often to obtain confessions. Human rights observers and government officials reported that beatings and abuse of prisoners increased during the year.

The Government reported that 51 criminal cases against law enforcement officers for physical abuse were filed during the year.

In March in Aktau, human rights advocates publicized the case of Berik Tatiyev, who reportedly was severely tortured by MVD authorities while being held in pretrial detention between December 2003 and February. Procurators launched a criminal investigation that did not result in any charges by year's end. The director and deputy director of the Aktau pretrial detention facility were fired, and the head of the Aktau police department received minor disciplinary punishment for his role in the case.

It was reported that in July 2003, a district deputy procurator and two other men brutally beat a 14-year-old girl at a cafe in the southern part of the country. The case was ongoing at the year's end; however, according to the victim's parents, the district deputy procurator exerted pressure on witnesses in the case, discouraging them from testifying.

On July 16, the Arkalyk City court convicted four Arkalyk prison guards for beating prisoners on January 11. All 4 guards were sentenced to prison terms ranging from 5 to 6 years.

There were unconfirmed reports that some women detained by law enforcement officers were subjected to coercive sexual advances or rape.

Army personnel continued to subject conscripts to brutal hazing, including beatings and verbal abuse. There were reports of hazing-related deaths and suicide (see Section 1.a.); which in some cases led to investigations and eventual convictions of service members. The Main Military Procurator reported close to 100 suicides among conscripts in 2003. The Army reported that 128 hazing cases were opened during the first 9 months of 2003, 13 of which were classified as particularly severe; in the first 6 months of 2003, 50 service members were convicted of hazing. On January 5, conscript Andrey Frolov committed suicide while serving in a military unit stationed in Tokyaru settlement, near Balkhash. According to an internal investigation, Frolov had been subjected to extensive physical and psychological abuse by older soldiers. Reportedly, other conscripts were abused by the same soldiers but were too scared to testify in court and a trial did not take place. On January 18, conscript Baurzhan Bukitayev committed suicide by hanging. Two sergeants in Bukitayev's military unit were tried and convicted for hazing Bukitayev.

Conscript Madiyar Argynbekov committed suicide on November 30, leaving a suicide note that blamed an older soldier in a Pavlodar military detachment for hazing and physical abuse. An investigation was underway at year's end.

The Government continued a training program for military forces on social and legal issues, which included mandatory antihazing training.

Prison conditions remained harsh and sometimes life threatening. Mistreatment occurred in pretrial detention facilities and in prisons, and nongovernmental organizations (NGOs) and international organizations reported that abuses of prisoners increased after the head of the penitentiary system and approximately one-third of the prison administrators were replaced in 2003. The December 2003 transfer of supervision of pretrial detention facilities from the MVD to the Ministry of Justice was completed in May; as a result of this transfer, conditions improved, although they remained harsh. The head of the prison system and two deputies resigned in February following reports of brutal beatings of inmates in certain prisons. Violent crime among prisoners was common. During the year, the number of prisoners continued to decline significantly. Much of the decrease was associated with the 2002 Humanization of Criminal Justice Law, which prescribes punishments other than imprisonment, such as probation, for minor first offenses.

The Government reported 2,600 total violations, including physical force violations, by employees of the penitentiary system during the year. Some officials were punished for these abuses; 911 employees received disciplinary punishment, including fines, demotions, and dismissal and another 8 employees were convicted on criminal charges.

In the past several years, prison diets and availability of medical supplies have improved. There were 6 tuberculosis colonies and 2 tuberculosis hospitals for prisoners; 5,591 prisoners were housed in these colonies. While the incidence of tuberculosis stabilized, HIV/AIDS continued to be a problem. The Government, together with the U.N. Development Program (UNDP), continued to implement a project to prevent HIV/AIDS and other sexually transmitted diseases in penitentiaries. Prisoners were permitted to have visitors, although the number and duration of visits depended on the security level of the prison and the type of sentence being served.

Prisoners were held in close proximity, barracks-style facilities; however, a government program to build new correctional facilities and rehabilitate existing facilities continued throughout the year.

Incidents of self-mutilation by inmates to protest prison conditions continued. In general, the Government did not take action in response to self-inflicted injuries by prisoners.

In May, a group of juvenile prisoners at an Almaty prison staged a riot to protest harsh conditions. After the uprising was suppressed, the Penitentiary Commission reported that two prisoners had been admitted to the hospital: One had attempted suicide, another had been thrown out a second story window by his roommates.

There were separate facilities for men and women, and juveniles were held separately from adults. Pretrial detainees were held separately from convicted prisoners. Approximately 50 percent of the prison population served their terms in facilities that, contrary to the law, were not near their places of residence.

Although there is no known statutory requirement, human rights observers and journalists wishing to visit prisons must receive authorization; observers and journalists reported that authorities often denied such requests, especially in politically sensitive cases. The Kazakhstan International Bureau for Human Rights and Rule of Law visited men's, women's, and juveniles' facilities during the year, although they also reported that their requests were sometimes denied without clearly articulated reasons.

d. Arbitrary Arrest or Detention

The Constitution prohibits arbitrary arrest and detention; however, they remained problems.

The KNB plays a law enforcement role in border security, internal security, and antiterrorism efforts and oversees the external intelligence service, Barlau. The Chairman of the KNB reports directly to the President. The MVD supervises the national police force. Police were poorly paid and widely believed to be corrupt. On June 25, the MVD announced the creation of regional public commissions to investigate allegations of corruption and abuse received through hotlines set up to receive complaints about police. The Minister also reported that over 300,000 complaints of police corruption had been received in 2003 (see Section 3).

According to the Government, during the year, 74 investigations were initiated against 114 law enforcement officers, for violations of citizens' rights. Of these cases, 25 resulted in criminal cases taken to courts. Human rights observers believed that these cases covered only a small fraction of the incidents of police abuse of detainees, which they characterized as routine.

The Constitution provides that courts or procurators must sanction arrests and detentions, and the Government generally respected this provision in practice. Warrants were required for arrest. Procurators have the power to authorize arrest and pre-trial detention as well as investigative actions such as searches and seizures. The law allows police to hold a detainee for 72 hours before bringing charges; however, human rights observers alleged that police routinely failed to register the name of a person arrested in order to extend the maximum 72-hour period that a person could be held without the approval of the

procurator.

A bail system exists, but was rarely used, and individuals generally remained in pretrial detention until their trial.

Every person detained, arrested, or accused of committing a crime has the right to the assistance of a defense lawyer from the moment of detention, arrest, or accusation; however, police were not required under the law or in practice to inform detainees that they had the right to an attorney. Human rights observers alleged that law enforcement officials dissuaded detainees from seeing an attorney or gathered evidence through preliminary questioning before the person's attorney arrived and the formal interrogation began.

The Government arrested and detained government opponents and critics, sometimes for minor infractions of the law such as unsanctioned assembly, and selectively prosecuted political opponents (see Sections 1.e., 2.a., and 2.b.).

On August 16, journalist Sergey Duvanov was conditionally released from custody under parole status. In 2003, Duvanov, known for his reporting on domestic politics, was convicted of raping a minor and sentenced to 3½ years in prison, though most recently he had been under house arrest. Observers considered the charges politically motivated and the trial marked by serious procedural irregularities (see Sections 1.e. and 2.a.). Duvanov's release was subject to certain restrictions on his movement and attendance of public events.

There were credible reports of arbitrary detention of members of the political opposition.

On August 16, former Governor and opposition party Democratic Choice of Kazakhstan (DCK) leader Galymzhan Zhakiyanov was transferred to a minimum security settlement colony, the first administrative step toward parole. In 2002, Zhakiyanov had been tried and convicted of alleged abuse of power and corruption along with Mukhtar Ablyazov, former Minister of Energy. The arrests occurred years after the crimes were allegedly committed, but only months after Ablyazov and Zhakiyanov founded an opposition political movement. Authorities reportedly tried to convince Zhakiyanov to discontinue his political activities in exchange for release, and threatened to impose new criminal charges.

Police reportedly detained foreigners without official charges, sometimes mistreating them.

Pretrial detention is permitted for periods up to 1 year with approval from the Procurator General, and there were no reports that detainees were held for periods longer than 1 year. The aggregate number of persons held in pretrial detention facilities continued to decline during the year; at year's end, 8,000 detainees were being held pending trial. Local human rights NGOs reported that authorities generally denied them access to pretrial detention facilities.

An unnamed citizen from Shymkent won a lawsuit against the Government for damages inflicted by police during investigation of his wife's murder in 2003. The Government was ordered to pay \$2307.70 (300,000 KZT) as monetary remuneration for illegal detention and police abuse of the plaintiff. The Supreme Court press service indicated that this suit was the first in which the Government was held financially responsible for illegal detention and police abuse.

Many individuals were detained for identity checks without suspicion of a criminal offense. Law enforcement officials performing identity checks were required by law to identify themselves and show their badges if the subject requested.

e. Denial of Fair Public Trial

The law does not adequately provide for an independent judiciary; in practice, the executive branch subjugated judicial independence. Procurators enjoyed a quasi-judicial role, and were permitted to suspend court decisions.

There are three levels in the court system: District, Oblast (regional), and the Supreme Court. District courts are the court of first instance in nearly all criminal cases. Oblast courts hear cases involving more serious crimes, including those that carry the death penalty, and may handle cases in rural areas with no local courts. District court decisions may be appealed to the oblast courts, and oblast court decisions may be appealed to the Supreme Court. There are also military courts.

The Constitutional Council, which replaced the Constitutional Court, rules on election and referendum challenges, interprets the Constitution, and determines the constitutionality of laws adopted by Parliament. The President directly appoints three of its seven members, including the chairman, and has the right to veto Council decisions. The Council can overturn a presidential veto if at least two-thirds (five) of its members vote to do so. Only the President, Chairman of the Senate, Chairman of the Parliament, Prime Minister, one-fifth of the Members of Parliament (M.P.s), or a court of law may appeal to the Constitutional Council; courts may appeal if they find that a law or legislation undermined the rights and liberties of an individual and a citizen. Citizens may not appeal to the Council, although they were allowed to appeal the constitutionality of government actions to the former Constitutional Court.

Corruption was evident at every stage and level of the judicial process. Although judges were among the most highly paid government employees, lawyers and human rights monitors alleged that judges, procurators, and other officials solicited bribes in exchange for favorable rulings the majority of criminal cases (see Section 3).

The President nominates Supreme Court judges to the upper house of Parliament through the presidentially appointed Supreme Judicial Council. The President appoints oblast judges nominated by the Supreme Judicial Council, and local level judges from a list presented by the MOJ. Judges are appointed for life or until mandatory retirement at age 65.

The law provides for a fair trial; however, trials often were not fair in practice. The Constitution allows for trial by jury; however, jury trials were not implemented in practice. Trials were public, except in instances that could compromise state secrets, or to protect the private life or personal family concerns of a citizen. However, there were several reports during the year of journalists being denied access to open court hearings. Defendants have the right to counsel and to a Government-provided attorney if they cannot afford one; however, in practice, defense attorneys reportedly participated in only half of all criminal cases because the Government did not have sufficient funds to pay them.

The Constitution also provides defendants the right to be present at their trials, to be heard in court, and to call witnesses for the defense. Defendants enjoy a presumption of innocence, are protected from self-incrimination, and have the right to appeal a decision to a higher court. These rights were generally exercised in practice; however, there were reports of individual cases of infringement.

Court verdicts were often determined invalid, and in many cases reversed based on the inadequacy of evidence. In many instances, lower courts convicted defendants despite procedural violations. Lack of due process was a problem, particularly in politically motivated trials.

On August 16, journalist Sergey Duvanov, who was convicted in March 2003 of raping a minor, was released on full parole. Independent legal experts deemed his trial unfair, citing lack of evidence, procedural violations, and denial of the presumption of innocence through comments made by the President.

Zhakiyanov, who had been convicted in 2002 following a trial that international observers said was politically motivated and lacked due process, remained in a prison facility in Kostanay Oblast until August, when he was transferred to a reduced security settlement colony in Shiderty, Pavlodar Oblast. Zhakiyanov's family and advocates reported that he faced harsher conditions than other inmates at the facility. Following Zhakiyanov's transfer, the media reported an official investigation of new corruption charges against Zhakiyanov; however, at year's end, no new charges had been filed.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions; however, the Government at times infringed on these rights.

The law provides procurators with extensive authority to limit citizens' constitutional rights. The KNB, MVD, Financial Police, and other agencies, with the concurrence of the Procurator General's Office, may infringe on the secrecy of private communications and financial records, as well as on the inviolability of the home. Courts may hear an appeal on such decisions by procurators, but cannot issue an immediate injunction to cease the infringement. The Criminal Procedure Code allows wiretapping and recording of communications for investigative purposes without a procurator's warrant only in urgent cases; however, the Procurator must be notified of the interception within 24 hours.

Government opponents continued to report that the Government monitored their movements and telephone calls on occasion.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press; however, observers reported the Government used a variety of means, including criminal and administrative charges, physical attacks, and vandalism to control the media. Judicial actions against journalists and media outlets, including civil and criminal libel suits filed by government officials, contributed to self-censorship.

The Government limited individuals' ability to criticize the country's leadership, and regional leaders increasingly sought ways to limit local media outlets' criticism of them. The Constitution provides for the protection of the dignity of the President, and the law prohibits insulting the President and other senior officials.

Prior to the September 19 Mazhilis elections, international and local elections observers and opposition parties cited strong media bias in favor of pro-administration parties as a serious breach of the election law, which stipulates that media must provide equal coverage of all parties during the official campaign season. The Organization for Security and Cooperation in Europe (OSCE) noted that no media outlets were shut down in the period prior to the elections, nor were journalists prosecuted, as during past elections. However, a local media advocacy group documented 39 separate incidents of journalists being denied access to information about the elections or being prohibited from covering voting or vote-counting, rights that are protected by law.

In July, Altynbek Sarsenbailuly, a co-chairman of opposition party Ak Zhol, was appointed Minister of Information. Sarsenbailuly took a leave of absence from this position in August to campaign for the Mazhilis elections. On September 20, Sarsenbailuly formally resigned his position as Minister of Information to protest elections irregularities. The Ministry was reorganized later in the year to become part of the Ministry of Culture, Information and Sports.

According to government statistics, there were 990 privately owned newspapers and 418 privately owned magazines. The Government ran one of the two national Russian-language newspapers and the only national Kazakh language newspaper that appeared as many as five times a week. In addition, members of the President's family were believed to control a number of privately owned media. Many newspapers that nominally were independent received government subsidies. Each major city had at least one independent weekly newspaper. The centrist opposition political party Ak Zhol continued to publish two national weeklies during the year.

The Government controlled nearly all broadcast transmission facilities. There were 116 independent television and 35 radio stations. Only three combined radio and television companies could broadcast nationwide; of these, one was completely government-owned, one was 50 percent government-owned, and one was nominally independent. Regional governments owned several frequencies; however, independent broadcasters arranged to use the majority of these. Many media outlets considered to be independent, including the larger outlets, were owned by holding companies believed to be controlled by members of the President's family and close circle of friends.

All media were required to register with the Ministry of Information, or its successor, the Ministry of Culture, Information and Sports, although websites were exempted from this requirement. In practice, media outlets known to be associated with opposition political parties or movements were frequently refused registration.

The law limits the rebroadcast of foreign produced programming to 20 percent of a station's total airtime. This provision burdened smaller, less-developed regional television stations that lacked resources to develop their own programs. However, no media outlets were sanctioned under this provision.

Harassment of and violence against journalists were problems.

For example, on March 17, the city court of Aktyubinsk sentenced Vladimir Mikhaylov, the publisher of the independent weekly newspaper Diapazon, to 1 year in prison for noncompliance with a 2002 court order regarding a property dispute that media advocates characterized as politically motivated. Diapazon staffers believe the case was motivated by local authorities' desire to take control of the paper, as Mikhaylov was approached earlier during the year and was asked to sell his interest in Diapazon, but refused. Mikhaylov's sentence was reduced to 180 hours of community service on appeal, and on April 26 he was released from prison, where he had spent the previous month.

In November 2003, an Almaty district court convicted Yermurat Bapi, editor-in-chief of the opposition newspaper SolDat and a member of the executive committee of the RNPK, of tax evasion and barred him from practicing journalism for 5 years. Bapi and the newspaper had previously been subjected to harassment, libel suits, and tax charges.

On August 16, a district court in Almaty granted a permanent early release on full parole to journalist Sergey Duvanov, who had been jailed after a January 2003 conviction on the allegedly politically motivated charge of raping a 14-year-old (see Sections 1.d., 1.e., and 3). In a separate incident, Duvanov was the victim of a 2002 attack by three unknown persons, who carved a cross and several other marks on his chest and allegedly told him that he was aware of why they were attacking him. President Nazarbayev denounced this attack, calling it a provocation. Duvanov received no communication on the case from law enforcement during the year and no arrests were made.

During the September Mazhilis elections, members of a local election commission assaulted newspaper correspondents Tamara Sukhomlinova and Gulzhanat Isabayeva. Their newspaper filed an official complaint with the regional procurator in September, but had not received a response by year's end.

On July 16, Askhat Sharipzhanov, a correspondent for the opposition online news organization Navigator, was struck by a car and died 4 days later, under what journalists and human rights advocates stated were suspicious circumstances. According to the police account of the accident, Sharipzhanov was drunk when he was struck by a car late at night as he was crossing a street in Almaty. Sharipzhanov's colleagues reported that he had conducted interviews with opposition figures Zamanbek Nurkadilov and Altynbek Sarsenbailuly on the evening of the accident. The tape recorder that Sharipzhanov's colleagues believed he was carrying was not found. Colleagues also noted several suspicious deviations from Sharipzhanov's normal routine on the night he was injured. Hearings into the death began in October in the Almaty District Court, but had not concluded by year's end.

Journalists covering organized crime and corruption reported harassment and intimidation directed at them as a result of their reporting.

On August 17 in Taraz, unknown assailants threw 7 molotov cocktails through the windows of the independent weekly newspaper, Yuzhniy Ekspres. Editor-in-chief Zharylkasyn Nuraliyev said the attack was likely provoked by reporting on organized crime structures and was not linked to the parliamentary elections. A local media defense expert suggested the attack

was linked to a particular article in the newspaper on attempts by crime bosses to put up candidates for the parliamentary elections. No one had been charged by year's end.

The law provides for free speech and prohibits censorship; however, it also enables the Government to restrict media content under amendments that prohibit undermining state security or advocating class, social, race, national, or religious superiority, or cruelty and violence. Owners, editors, distributors, and journalists may be held civilly and criminally responsible for content, regardless of the source of information, unless it came from an official source. Criminal libel suits could be initiated by private parties on behalf of the Government, and an individual filing such a suit would be able to file a civil suit as well, based upon the same allegations. The law also prohibits violence and all pornography from television broadcasts. The Government continued to be able to influence most printing and distribution facilities and to subsidize periodicals, including many that supposedly were independent. In addition, many publishing houses were government-owned.

In April, the President vetoed a draft media law after the Constitutional Council ruled parts of the draft unconstitutional. International organizations and NGOs stated the draft would have further restricted media freedom. In August, then-Minister of Information Altynbek Sarsenbaiuly convened a working group to revise the law to make it conform with internationally recognized democratic standards, but the status of that draft was left in doubt after Sarsenbaiuly resigned in September. The Congress of Journalists released an alternate version of a draft media law on October 21. By year's end, no draft law had been accepted by the Government for submission to Parliament.

During the year, almost all media outlets willing to criticize the President directly were subjected to intimidation, often in the form of law enforcement actions and/or civil suits. While these events continued to cast a chilling effect on all media outlets, criticism of government policies continued to be reported during the year.

The State Secrets Law makes it a criminal offense to release any information about the health, financial, or private life of the President, as well as economic information about the country such as the volumes of national mineral reserves and the amount of government debt owed to foreign creditors.

Officials used the law's restrictive libel and defamation provisions to force media outlets to refrain from publishing unflattering information. Both the Criminal and Civil Codes contain articles establishing broad libel liability. Owners, editors, distributors, publishing houses, and journalists were held responsible for the content of information conveyed and had the burden of proving its veracity, regardless of its source, which promoted self-censorship at each level. At times, fines for libel were exorbitant and bankrupted small media outlets.

Iskak Toksanbayev, a Petropavlovsk police colonel and the head of the regional MVD, filed a defamation suit against Vremya reporter Grigoriy Melnikov regarding a September 9 article that reported Toksanbayev had been fired after an incident during a drunken party. Toksanbayev demanded \$15,385 (2,000,000 KZT) in damages. In a separate incident in March, Melnikov initiated criminal charges against Berik Bilyakov, the head of an oblast (regional) criminal investigation division, for attempting to set him up in a fight in order to have him arrested. The case against Bilyakov was dismissed in September for lack of evidence. Melnikov stated the set-up was in retaliation for his article criticizing Bilyakov. Bilyakov filed a lawsuit against Melnikov in Petropavlovsk city court for defamation. The defamation cases were ongoing at year's end.

On October 27, the joint stock company Khabar, headed by Dariga Nazarbayeva, filed a defamation suit against Altynbek Sarsenbaiuly, co-chairman of the opposition Ak Zhol party and former Minister of Information, in response to an October 1 interview in the weekly opposition newspaper Respublika, in which he accused Khabar of monopolizing the media market and violating financial regulations. The Khabar company demanded a public retraction and \$7.58 million (1 billion KZT) in damages.

On July 16, an Almaty district court ordered the owner of weekly newspaper Assandi Times to pay \$384,615 (50 million KZT) in damages regarding a civil libel suit the Presidential Administration filed against the paper for defamation. On June 2, a forged issue of the Assandi Times was published with articles that discredited opposition leaders and suggested the "Kazakhgate" case being tried in a foreign country was based on false information provided by the President's opponents. The day the false edition appeared, Assandi Times' editors posted a statement on the opposition Navigator online news site suggesting that the Presidential administration had published the forged issue. The Presidential Administration filed a separate suit against Navigator; the Navigator case was dropped after a retraction was issued by the website. The amount of damages against Assandi Times was the highest ever set in a libel case. As a result, the Assandi Times was forced to cease publication in mid-July due to insolvency. By the end of the year, the damages assessed to Assandi Times had not been paid.

In mid-August, the former staff of the Assandi Times began publishing a new newspaper, Respublika: Delovoye Obozreniye. This marked the fourth time the newspaper's name changed to avoid what the editorial and management staff considered illegal judgments against the publication.

On March 17, the Zhetysay district court in Almaty acquitted journalist Genadiy Benditskiy, of the national newspaper Vremya, of criminal libel, for lack of evidence. The charges were based on a complaint by former Minister of Energy Asygat Zhabagin, who objected to two articles Vremya published in 2003, which alleged that the organization that Zhabagin headed held bank accounts containing approximately \$1.58 million (2.15 million KZT) in state funds that had been allocated for another purpose.

Media outlets generally practiced self-censorship regarding information on the President and his family to avoid possible legal

problems.

Most media did not report a 2003 story, which had been widely reported internationally, about an investigation into possible illicit payments, allegedly from foreign companies to senior government officials, including President Nazarbayev. Local media outlets, when they did report on the case, informally dubbed it Kazakhgate (see Section 3).

Some journalists alleged that the KNB or tax police threatened publishing houses if they printed opposition media; concern over criminal or civil proceedings influenced publishing houses.

The law defines websites based in the country as media outlets. During the year, the content of websites was subject to libel lawsuits and criminal charges. Independent web media reported that the Government periodically blocked clients of the two largest Internet providers, Kaztelecom and Nursat, from direct access to several opposition websites, including Evrasia, Navigator, and Kub, although access was still available through anonymous proxy servers.

The Government generally did not restrict academic freedom; however, as was the case for journalists, academics could not violate certain restrictions, such as criticizing the President and his family.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association; however, there were significant restrictions on these rights in practice. The Law on National Security defines as a threat to national security unsanctioned gatherings, public meetings, marches, demonstrations, illegal picketing, and strikes that upset social and political stability.

Under the law, organizations must apply to the local authorities for a permit to hold a demonstration or public meeting at least 10 days in advance, or the activity is considered illegal. Opposition and human rights monitors complained that complicated procedures and the 10-day notification period made it difficult for groups to organize public meetings and demonstrations, and reported that local authorities, especially those outside Almaty, turned down most applications for demonstrations in central locations. Organizers of unsanctioned gatherings, including political party gatherings, frequently were detained briefly and often fined (see Section 3).

On September 8, during an unsanctioned rally in the central square in Almaty, approximately 50 members of the opposition party Democratic Choice of Kazakhstan (DCK) approached the office of Dariga Nazarbayeva, daughter of President Nazarbayev and leader of the pro-Presidential party Asar ("All Together"), to challenge her to a debate. Police detained eight of the activists for a few hours, and fined them a nominal sum.

In September, DCK received a permit to hold another rally, co-sponsored by the Communist Party, as part of series of national rallies leading up to the September 19 parliamentary elections. However, the permit specified that the rally could take place only at a site on the outskirts of Almaty; DCK and the Communist Party instead staged the rally in the center of the city. Several DCK activists were taken to court, though no fines or penalties were levied. There was a separate report of the detention of an activist in Aktau city, who was fined and released after taking part in a concurrent, but unsanctioned, DCK/Communist rally in Aktau.

In early October, the DCK-Communist bloc attempted to get permits to stage demonstrations in cities across the country to protest election results. The protest was to take place on October 2, prior to run-off parliamentary elections. All requests for permits were denied by akimats, the local municipal governments.

Any public organization set up by citizens must be registered with the MOJ, or its oblast branches. Participation in nonregistered public organizations can result in administrative or even criminal liability, such as fines, dissolution, probation or imprisonment. Although authorities often did not object to groups that failed to formally register, in some instances the prohibition on unregistered organizations provided the pretext for authorities to interfere with the activities of organizations. Membership organizations, including religious groups, must have 10 members to register at the local level and branches in over half of the oblasts for national registration. Political parties and labor unions were considered membership organizations, but had specific registration requirements. The law requires parties to have 50,000 members, including 700 in each region and prohibits parties established on an ethnic, gender, or religious basis (See Section 3).

The Constitution prohibits members of the armed forces, employees of national security and law enforcement organizations, and judges from participating in trade unions or political parties.

During the year, organizations were charged a fee to register as new organizations. Many organizations had to hire lawyers or other consultants to expedite registration through the bureaucracy, which increased the registration cost considerably. Some groups considered these costs to be a deterrent to registration.

On September 21, a law went into effect simplifying registration procedures for legal entities, including membership and nonmembership organizations (see Section 2.c.). The new law provides that registration be granted within 10 days instead of 15. The law introduced a one-window procedure in which the MOJ is the sole agency to which the entities must apply; previously, legal entities had to register with the MOJ, the Agency on Statistics, and tax agencies, with each agency requiring a separate

package of registration documents. Initial reports indicated that the registration process was more streamlined in practice.

On February 4, Kakharman Kozhamberg, leader of the Association of Uighurs, reported he had been fined for holding an illegal meeting of an unregistered association when the association attempted to reorganize itself as a political party in a meeting in Almaty in July 2003.

The Government maintained that Hizb ut-Tahrir, a banned Islamic organization, is an extremist group. Although Hizb ut-Tahrir maintained that it was committed to nonviolence, the party's strongly anti-Semitic and anti-Western literature called for secular governments, including in the country, to be replaced by a world-wide Islamic government called the Caliphate. The Government does not consider Hizb ut-Tahrir to be a religious organization and characterizes the handing out of pamphlets by Hizb ut-Tahrir members as incitement for political and terrorist purposes. On several occasions during the year, authorities detained Hizb ut-Tahrir members for distributing literature. More frequently than in previous years, authorities filed charges against these individuals, and courts convicted several of them, generally for inciting social, national, tribal, racial, or religious hatred. In other cases, however, alleged Hizb ut-Tahrir members simply continued to be held in custody for brief periods and then released. During the reporting period, there were no reported cases of government officials harassing observant Muslims under the guise of combating Hizb ut-Tahrir activities, other than those actively engaged in pamphleteering. (see Section 2.c.).

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this in practice; however, local officials attempted on occasion to limit the practice of some nontraditional religions. Higher-level officials or courts often intervened to correct such attempts. There existed general wariness within the population, particularly in rural areas, of nontraditional religions.

The Constitution defines the country as a secular state. While on several occasions in previous years the Government unsuccessfully sought to amend the National Religion Law to give the Muslim Spiritual Association a quasi-official role, both the Government and the association denied any official connection between them.

The Government invited the leaders of the two largest religions, Islam and Russian Orthodoxy, to participate jointly in some state events. The leaders of the Catholic and Jewish religions, which were represented by small proportions of the population, also participated in some official events. Leaders of other faiths, including Baptists, Adventists, and other nontraditional groups, have at times also participated in some government events.

In contrast to laws governing other public associations, the National Religion Law does not explicitly require religious organizations to register with the Government (see Section 2.b.); however, religious organizations must register to receive legal status in order to act as a legal entity to buy or rent real property, hire employees, or engage in other legal transactions. Unlike in previous years, religious groups did not experience delays in registration; this was primarily due to the new law that simplified the registration procedure (see Section 2.b.). The Government exempted registered religious organizations from taxes on church collections and income from certain religious activities. The Government donated buildings and provided other assistance for the construction of new mosques, synagogues, and Russian Orthodox churches.

The administrative code allows national and local authorities to suspend activities or fine the leaders of unregistered religious organizations, although both legal experts and government officials had varying interpretations as to whether it supercedes the National Religion Law on the obligation of religious groups to register. In practice, some lower courts used the administrative code to sanction religious groups, but cases were generally overturned or dismissed.

Local officials, particularly in remote locations, often insisted that religious organizations register at the local level, despite the fact that registration at the national or the oblast level legally was sufficient to obtain the rights that registration offers.

Members of the Council of Churches of Evangelical Christians and Baptists reported that they were harassed by law enforcement for not being registered. Although the Council of Churches was reported to act as a legal entity, it has a policy of not seeking or accepting registration in former Soviet countries. During the year, as in the previous year, the Government dropped criminal cases and did not fulfill court orders that would have compelled congregations affiliated with the Council of Churches of Evangelical Christians and Baptists to register. In Nikolayevka, Almaty Oblast, Aleksandr Kalmakov was fined for his group's failure to register; he reported that court bailiffs harassed him to pay the fine early in the year, but still refused to pay the fine at year's end.

In July, Vilgelm Dik, a member of the Council of Churches of Evangelical Christians and Baptists, was found guilty of violating the Administrative Code by not registering, and was fined. On February 12, the city court of Karatau in Zhambyl Oblast tried Asan Abylkhanov, also a member of the Council of Churches, and fined him \$49.48 (6,433 KZT) for conducting a religious service without registration. Neither Dik nor Abylkhanov had appealed or paid the fine by year's end; their respective congregations maintained their refusal to register.

In an October 6 report, the national Jehovah's Witnesses Religious Center stated that its members were generally able to freely practice their religion without interference; however, the Center reported isolated problems. Although local Jehovah's Witnesses groups are formally registered at the national level and in 12 oblasts, the Center has attempted unsuccessfully to register in a

northern Kazakhstan Oblast since 1997 and in Atyrau Oblast since 2001. In 2003, the MOJ ordered its Northern Kazakhstan Oblast branch to register the group; however, it had not done so by year's end.

Although the Hare Krishna movement was registered at the national level, followers faced continued local government and police harassment during the year. On August 27, the Hare Krishna community in Almaty Oblast held an annual convention with foreign guests. The community filed a formal request to hold the gathering with oblast authorities 2 weeks before the event began, but received no response. The Hare Krishna community reported that seven foreign invitees were briefly detained and released with a warning for violation of the immigration law. However, unlike in previous years, no Hare Krishna followers were deported. During this weeklong gathering, law enforcement representatives visited the convention on a daily basis, conducting health, sanitation, and other inspections of the premises to ensure compliance with the law.

Law enforcement authorities conducted inspections of religious groups throughout the country, claiming the right to do so as a means of preventing the development of religious extremism and ensuring that religious groups pay taxes. Where religious groups operated as legal entities, such as running collective farms and restaurants or operating orphanages, authorities conducted health, sanitation, and other inspections relevant to the nature of the entity's operations. These inspections also provided the authorities with information about the registration status of the groups, even when the inspection appeared reasonable given the nature of the group's operations.

According to Hare Krishna leaders, the authorities made frequent inspections of the Krishnas' settlement outside Almaty. In September, the Hare Krishna farm was the subject of 11 inspections by different government agencies including the police, fire protection service, sanitary agency, environment protection agency and land committee, and subsequently fined for different violations of the law. The Hare Krishnas admitted several violations, which they attempted to rectify, but reported that they had been subjected to closer scrutiny than their neighbors, who were generally not subject to inspections. Notwithstanding these inspections, Hare Krishna leaders reported that in general, conditions for their community improved during the year.

The Council of Churches of Evangelic Christians and Baptists reported that a church service in Arkalyk was disrupted on April 18 by local police, who videotaped the service without the congregants' permission. No other disruptions of religious services were reported during the year.

The national Jehovah's Witnesses Religious Center alleged continuing incidents of harassment by a number of local governments. It claimed that city officials sometimes blocked the group from renting stadiums or other large public or private sites for religious meetings.

The law does not prohibit foreign missionary activity. Although the law is unclear on whether missionaries were required to register, there were no reports of officials requiring missionaries to register during the year.

On October 1, the media reported a conflict between missionaries from Missionary Center Grace Rakhim and local Muslims in a village in Akmola Oblast. The missionaries, who identified themselves as Presbyterian Christians, were threatened, beaten, and exiled from the village when they preached to local inhabitants in an attempt to convert them.

There were no reports of incidents of anti-Semitism by the Government. In August, the Chief Rabbi of Kazakhstan addressed an international religious conference in Brussels, stating that in his 10 years living in Kazakhstan, he had never faced a single case of anti-Semitism, and he praised the Government for its pro-active protection of the Jewish community. Other than the actions of members of political organization Hizb ut-Tahrir, who printed and distributed leaflets that supported anti-Semitism among other beliefs, there were no reports of anti-Semitic incitement or acts during the year.

For a more detailed discussion, see the [2004 International Religious Freedom Report](#).

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights; however, in practice, citizens were required to register to prove legal residence and obtain city services.

Citizens and foreigners in the country for more than 5 days were required to register with the migration police. Registration in most of the country generally was routine, but it was often difficult to register in Almaty and Astana due to local officials' fears of overcrowding. Persons who were suspects in criminal investigations were often required to sign statements that they would not leave their place of residence. Many individuals were detained for identity checks without suspicion of a criminal offense (see Section 1.d.).

Although the Government did not require exit visas for temporary travel of citizens, there remained certain instances in which exit from the country could be denied, including for travelers subject to pending criminal or civil legal proceedings, unserved prison sentences, or compulsory military duty. Travelers who presented false documentation during the exit process could be denied, and travel by active-duty military was controlled. The Law on National Security requires that persons who had access to state secrets obtain permission from their employing government agency for temporary exit from the country.

The Constitution prohibits forced exile, and the Government did not employ it.

The Constitution provides for the right to emigrate and the right to repatriate, and the Government generally respected these rights in practice; however, the Law on National Security prohibits persons who had access to state secrets from taking up permanent residence abroad for 5 years after leaving government service. A permanent exit visa was required for emigrants and obtaining this visa required criminal checks, credit checks, and letters from any dependents concurring to the exit visa. Many individuals reported that without travel agency assistance, obtaining permanent exit visas could take several months.

Foreigners were required to have exit visas, which they received routinely with entry visas. Foreign visitors were required to register, either with airport immigration officials or local migration police. Immigration authorities occasionally fined foreigners without proof of registration before allowing them to leave the country.

Foreigners were required to obtain prior permission to travel to some border areas with China and cities in close proximity to military installations. The Government continued to declare certain areas closed to foreigners due to their proximity to military bases and the space launch center; however, foreigners could visit these areas with prior permission from the MVD.

The Government accorded special treatment to ethnic Kazakhs and their families who fled during Stalin's era and wished to return. These returnees were in principle entitled to citizenship and many other privileges. Other persons, including ethnic Kazakhs who were not considered refugees from the Stalin era, such as the descendants of Kazakhs who moved to Mongolia during the 19th century, had to apply for permission to return. It was government policy to encourage and assist all ethnic Kazakhs living outside the country to return. The Chair of the Agency for Migration and Demography reported that between 1991 and April 1, approximately 322,500 ethnic Kazakhs, including returnees, immigrated to the country, mostly from other former Soviet republics, Iran, Afghanistan, Mongolia, Turkey, China, and Saudi Arabia. The Government maintained a quota for returnee families that increased annually; during the year it was 10,000. The Government struggled to find resources for integration programs for those who arrived outside the quota. The Government helped provide families with housing, stipends, and other benefits and international organizations and local NGOs assisted in these efforts.

There were reports that the Government did not always extend benefits to returnee family members who were not of ethnic Kazakh origin. An international NGO reported that unskilled returnees who returned faced difficulty in finding work and housing.

Returnees were automatically eligible for citizenship; however, the prohibition on dual citizenship prevented many of them from receiving it immediately. Applications for citizenship generally took 6 months to process. According to Migration Police statistics, 48,731 out of approximately 73,000 ethnic Kazakh returnees, whose families had fled during the Stalin era, and who had returned since independence, had received citizenship by August.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, but the Government has not established a system for providing protection to refugees. The absence of legislation to fully implement the Convention left many aspects of refugee status unclear, such as whether refugees had a right to work. In practice, the Government provided some protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status, but not asylum.

The Government registered asylum seekers and determined their status, in consultation with the U.N. High Commissioner for Refugees (UNHCR). Only the President can grant political asylum, and he did not do so during the year. In some cases, asylum seekers and refugees were allowed to stay in the country while the UNHCR found third countries that would accept them. Nonpolitical asylum claims could theoretically be processed anywhere in the country; however, in practice, claims continued to be processed only in Almaty.

The Agency for Migration integrated the UNHCR and a local NGO, Kazakhstan Refugee Legal Support, into the process of reviewing refugee claims. By November, the UNHCR estimated that there were fewer than 16,500 refugees in the country, including 13,700 Chechens from Russia and 2,500 from Afghanistan. The remainder included Palestinians and Uighurs from China, among others.

The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. The Government allowed the UNHCR access to detained foreigners to determine if they qualified for refugee status and in practice was generally tolerant in its treatment of local refugee populations, except for citizens from former Soviet republics. Migrants from former Soviet republics were not considered to be refugees because they could ostensibly travel and settle freely within the Commonwealth of Independent States (CIS). The Government often did not allow refugees without passports or those who had entered the country illegally to register; in practice, it restricted registration almost exclusively to refugees from Afghanistan.

The Government struggled to deal with the increases in immigration, and periodically engaged in heavy-handed campaigns to round up noncitizens who violated migration procedures. According to a U.N. reporting agency, the Government deported large numbers of migrants each month.

The Government also provided temporary protection to individuals, including some Afghan refugees who may not qualify as refugees under the 1951 Convention/1967 Protocol. Consistent with the Minsk Convention on Migration within the CIS, the

Government did not recognize Chechens as refugees; however, the Government, in cooperation with the UNHCR and Chechen organizations, did grant indefinite but temporary legal resident status to Chechens until they could return home to safe conditions. In March 2003, the Government established a new temporary registration procedure for Chechens; however, reports persisted that Chechens did not have the same access to registration as others, and often resorted to paying bribes to local officials to obtain registration.

The Government had an agreement with China not to tolerate the presence of ethnic separatists from one country on the territory of the other. Human rights monitors remained concerned with the impact of this agreement on Uighurs from China in the country, although there were no reports of Uighurs forcibly returned to China during the year. The Government did not consider any asylum claims by Uighurs; however, it allowed the UNHCR to resettle some Uighur refugees to other countries during the year. In contrast to previous years, there were no reports of Uighur disappearances or questionable repatriations during the year.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides for a democratic government with universal suffrage for those over 18 years of age; however, in practice, the Government severely limited the right of citizens to change their government.

The Constitution concentrates power in the presidency, granting the President considerable control over the legislature, judiciary, and local government. The President appoints and dismisses the Prime Minister and Cabinet. Appointment of the Prime Minister, but not of cabinet members, is subject to parliamentary consent. Presidential appointments of the Procurator General and the KNB Chief require the consent of the Senate. The President has the power to dismiss Parliament and to appoint judges and senior court officials. The President also nominates, subject parliamentary approval, the chairman and members of the Central Election Commission (CEC), who oversee presidential and parliamentary elections. The Parliament has never failed to confirm a presidential nomination. Modifying or amending the Constitution effectively requires the President's consent. President Nazarbayev was elected to a 7-year term in a 1999 election that was held nearly 2 years earlier than scheduled and fell far short of international standards.

The bicameral Parliament consists of the Mazhilis, the lower house, and the Senate, the upper house. Seats in the Mazhilis are filled by direct election, while seats in the Senate are chosen by oblast (regional) councils called Maslikhats. Maslikhat members are directly elected by constituents.

President Nazarbayev signed a new election law on April 15. According to an assessment by the OSCE's Office for Democratic Institutions and Human Rights (ODIHR), the amendments to the law represented considerable progress in terms of transparency, formation of more pluralistic election commissions, and creation of more equal conditions for candidates; however, the OSCE assessment called for further improvements to fully meet the country's international commitments for democratic elections, especially with regard to remaining limitations on civil and political rights. Areas for improvement included continuing limitations on candidates to campaign, limitations on rights of observers, vague provisions for invalidating election results, and lack of sufficient guarantees for inclusive representation on election commissions.

On September 19, elections were held for all seats in the Mazhilis, followed by runoff elections on October 3. In its assessment, the OSCE/ODIHR elections observer mission determined that although elections reflected improvements over previous parliamentary elections, the process fell short of international standards and a number of aspects of the new election law were not implemented in an effective and impartial manner. Some domestic monitors found the election violations to be worse than previous parliamentary elections, citing violations of electoral legislation and abuse of voter lists, multiple voting, vote count problems, and interference of local authorities. However, other domestic groups found that irregularities did not appear to alter election results.

The OSCE noted the following areas of concern: Deregistration of candidates due to apparently politically motivated criminal convictions or administrative reporting violations; unequal access to election commissions for opposition party representatives and nontransparent behavior of commissions; media bias in favor of pro-presidential parties; ineffectiveness and lack of transparency in the appeals process; problems with counting and tabulation, including reports of protocols being altered or rewritten, and failure to publish final results broken down by polling station; improper pressure on voters; and haphazard introduction of electronic voting, which led to discrepancies in voter lists in parallel paper voting. The Constitution requires that results be published within 10 days; however, the CEC did not publish the results of the elections until October 31. Independent monitors stated that the final published results varied substantially from exit poll data and from preliminary CEC reports. Several opposition groups filed suits seeking vote recounts and claiming violations in television coverage; the suits remained pending at the end of the year.

There were some improvements in the conduct of the September Mazhilis elections, including improved voter education efforts and information campaigns and the extension of legal rights for domestic elections observers; however, these rights were not always observed in practice.

Although the law stipulates that the media must provide equal coverage of all parties, international and local elections observers and opposition parties cited strong media bias in favor of pro-administration parties, in terms of editorial content and access to advertising. Observers reported that this bias was most evident in the high percentage of television news coverage given to the President's Otan party and his daughter Dariga's pro-presidential Asar party by the largest television networks, in each of which

the Nazarbayev family owns either significant or controlling shares. The opposition also criticized the disproportionate number of paid political announcements for Otan and Asar on state-owned stations.

The OSCE noted that, unlike in previous elections, no media outlets were shut down in the period prior to the elections, nor were journalists prosecuted; however, a local media advocacy group, the International Foundation for Protection of Freedom of Speech (Adil Soz), documented 39 separate incidents of journalists being denied access to information about the elections or being prohibited from covering voting or vote-counting, rights which are provided for by law.

During the year, 12 political parties were registered, including 3 denied registration in previous years (Democratic Choice of Kazakhstan (DCK), the Communist People's Party of Kazakhstan (CPPK), and Rukhaniyat). In addition, two blocs were registered: The Agrarian and Civic parties formed the Agricultural-Industrial bloc, or AIST; the Communist Party and DCK formed an opposition bloc. International observers reported that the role of political party participation increased in the lead up to the September 19 Parliament elections.

Joining a political party requires members to provide personal information, including date and place of birth, address, and place of employment. For many citizens, this requirement inhibited them from joining political parties. There were credible allegations that persons entering government service were required to join the propresidential Otan party. Prior to the September 19 Mazhilis elections, students and faculty at several educational institutions reported pressure from rectors or management to join the propresidential Asar party. There were credible reports that employers attempted to use their professional positions to force employees to join or vote for particular propresidential political parties. In one case, there were reports that a government official and leader in a propresidential party pressured a group of citizens who received benefits from the official's agency to vote for that official's party.

The Government restricted the functioning of the political opposition. On July 27, Bulat Abilov, one of five cochairmen of opposition party Ak Zhol, was convicted on criminal libel charges and received a suspended 1½ year sentence, along with 2 years' probation, legally barring him from running in the September Mazhilis elections. On August 27, in a separate civil suit, Abilov was fined \$38,462 (5 million KZT) for causing "moral damage" to the plaintiff, M.P. Mukhtar Tinikeyev. Abilov had accused Tinikeyev in a television interview of both taking and offering bribes related to his selection to the Parliament.

On December 28, the Almaty Procurator began proceedings to liquidate DCK on charges that the party's December 11 statement, denying the legitimacy of the Government and calling for civil disobedience, undermined the security of the state and fanned social hatred.

Parliament exercised little oversight over the executive branch, although it has the constitutional authority to remove government ministers and to hold a no-confidence vote in the Government. Although Parliament must approve the state budget, the Constitution precludes Parliament from increasing state spending or decreasing state revenues without executive branch approval.

The executive branch exercises considerable power over the legislative branch. The President selected the date of the September 19 Mazhilis elections, pursuant to constitutional requirements that the election take place not later than 2 months prior to the end of the 5-year term of the incumbent Parliament. On November 3, the President dissolved the outgoing Mazhilis, 1 month earlier than had been announced prior to the September 19 elections. Nearly all laws passed by Parliament originated in the executive branch. The executive branch controls the budget for Parliament's operations; it has not provided funds for members of Parliament to hire staff, a situation generally viewed as decreasing Parliament's effectiveness.

If Parliament fails to consider within 30 days a bill designated urgent by the President, the President can issue the bill by decree. Although in practice the President has never resorted to this authority, it gives him additional leverage with Parliament. While the President has broad powers to dissolve Parliament, Parliament can remove the President only for disability or high treason, and only with the consent of the Constitutional Council, of which the President appoints three of seven members.

Although Parliament continued to become more open by publishing some draft laws, some parliamentary debates, and in some instances, its voting record, many parliamentary activities remained outside public view. In October, the Mazhilis passed a draft of a controversial Law on Extremism; the Senate returned the draft to the Mazhilis for revision, where it remained at year's end. All parliamentary discussion and debate of the draft law was closed. At year's end, specific provisions of the draft law were not publicized.

Corruption was a serious problem, although the Government took measures to address it. Corruption was perceived to be an increasing problem, especially prevalent among various law enforcement agencies.

According to government statements, police corruption was pervasive (see Section 1.d.). On April 18, employees of the Western Kazakhstan Oblast branch of the KNB were assaulted by three policemen in the course of an anticorruption investigation. According to media reports, the KNB employees were intending to arrest Yuri Horeshko, the chief of the Burlinsk District Department of Internal Affairs (MVD), in the act of taking a bribe. On November 22, three Burlinsk MVD officers were sentenced to 2½ years in prison.

President Nazarbayev announced on May 14 that he supported toughening penalties for judicial corruption. On June 25, the

MVD announced the creation of regional commissions to investigate allegations of police corruption that had been reported through national hotlines. The Minister reported that between June 2003-04, 300,000 public complaints had been received through the hotlines (see Section 1.c.).

In August, the President established a special commission to investigate complaints against law enforcement agencies. Representatives from the MVD, the State Security Service, the Procurator General, and Parliament served on the special commission (see Sections 1.c. and 3). In October, the special commission announced that it had investigated 34 complaints and punished officials in 12 of the cases. The other 22 complaints were determined to be unfounded. While many details of the cases remained unavailable, some of the complaints were reportedly related to court rulings.

The Constitution provides that the Government, public associations, officials, and media outlets should provide citizens with information that affects their rights and interests; however, in practice, citizens' requests for information, such as the text of draft laws before Parliament, were not fulfilled in a timely manner.

There were 3 women in the 39-seat Senate and 7 women in the 77-member Mazhilis. There were four women in the cabinet, one of whom served as deputy prime minister. There were no legal restrictions on the participation of women and minorities in politics; however, traditional attitudes hindered women from holding high office or playing active parts in political life (see Section 5).

There were 8 non-Kazakhs in the 39-seat Senate and ethnic minorities were represented in the 77-member Mazhilis. There was one non-Kazakh cabinet member and one non-Kazakh deputy prime minister.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, international human rights groups reported that the Government continued to control the work of NGOs that worked on sensitive issues, and noted harassment including police visits, arbitrary tax investigations, and surveillance of NGOs. NGOs engaged in democratization and civil society development reported harassment increased preceding the September 19 parliamentary elections and at year's end.

The Kazakhstan International Bureau for Human Rights and Rule of Law (KIBHR) and the Almaty Helsinki Commission were the most active of a small number of local human rights NGOs.

The Government did not prevent international NGOs and multilateral institutions dealing with human rights to visit the country and meet with local human rights groups as well as government officials. However, at times, the Government used tax and other administrative investigations to question international NGOs operating in the country on their activities; NGOs perceived these actions as an attempt to restrict their activities in the country. In May, the U.N. posted an international human rights expert in Almaty as a regional adviser to provide advice and training to government officials. In June, the U.N. Special Rapporteur on Independence of Judges and Lawyers visited the country. The Special Rapporteur will present his findings and recommendations to the Commission on Human Rights in April 2005.

The Presidential Commission on Human Rights is a 15-member consultative and advisory body that includes members from the public. The Commission coordinates government responses to human rights concerns rather than investigating individual complaints from citizens, which is handled by the Human Rights Ombudsman. The Commission also monitors fulfillment of international human rights conventions. On March 15, the Commission announced that most of the human rights violations reported were related to labor rights. The Commission reported that in 2003 approximately 700 workplace complaints were filed (see Section 6).

The Human Rights Ombudsman investigates complaints by citizens of violations of their rights by state agencies, although the Ombudsman is not authorized to investigate complaints concerning the President, Parliament, Government, Constitutional Council, Procurator General, CEC, or courts. In December, the President issued a decree extending the powers of the Ombudsman's Office to include the authority to appeal to Parliament to resolve citizens' complaints, to cooperate with international human rights organizations and NGOs, and to participate in court proceedings where a violation of human rights is at issue.

During the year the Ombudsman gave regular briefings to the press and reported that since the establishment of the Ombudsman's Office in 2002, the Ombudsman received over 4,000 complaints, including 1,514 claims in the first 11 months of the year. Many of the complaints were regarding court rulings over which the Ombudsman had no jurisdiction. The Ombudsman reported that 85 percent of the complaints from 2003 could not be resolved, in large part because the office acts only in an advisory capacity. NGOs believed that the Ombudsman was influenced by the Government and downplayed cases. In May, a group of European Commission experts visited the country and recommended that the Ombudsman report to the Parliament rather than the President, as well as a greater delineation of responsibilities between the Ombudsman and the Presidential Commission for Human Rights.

On November 2, the President issued a decree to set up a National Commission on Issues of Democratization and Civil Society,

which would report directly to the President. The Secretary of the Security Council, Bulat Utemuratov was selected to be Chairman. Leaders of all registered political parties were also asked to join the Commission; however, opposition party leaders declined to join. Some NGOs and political parties questioned the need for this Commission and proposed instead that existing mechanisms, such as the Ombudsman's Office, be strengthened and given more independence from the Government. The Commission had its first monthly meeting in December, and formed committees to address issues of modernization, program execution, decentralization, judicial reforms, civil society development, and increased empowerment of Parliament.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution states that no one may be subjected to discrimination for reasons of origin, social position, occupation, property status, sex, race, nationality, language, convictions, place of residence, or any other circumstances; however, the Government did not enforce this provision effectively. The Government favored ethnic Kazakhs in government employment and, according to many citizens, in the process of privatizing state enterprises.

Women

Violence against women, including domestic violence, was a problem. There is no specific domestic violence law; however, it can be addressed under assault and battery provisions of the Criminal Code. The maximum sentence for spousal assault and battery is 10 years in prison, the same as for any beating.

In September, Aitkul Samakova, Chairwoman of the National Commission on Women and Family Affairs and Minister of Environmental Protection, reported that in 2003, over 25,000 crimes against women were officially reported to law enforcement and that the actual number of crimes was higher. In 2003 in the capital, Astana, on average 6 women appealed to police each day as a result of violence. In June 2003, the National Commission on Women and Family reported that 64 percent of women have been victims of violent crime. A 2002 MVD survey found that 52 percent of women had reported some form of domestic abuse, with the highest incidence in rural areas, and only 30 percent of domestic violence cases were prosecuted. Police often were reluctant to intervene in domestic disputes, considering them to be the family's business, unless they believed that the abuse was life threatening. The MVD stated in November 2003 that spousal rape incidents, in particular, increased each year for the past several years. Police indicated that victims of domestic violence often asked only for officers to talk with their spouses. When victims did decide to press charges for domestic violence or spousal rape, police sometimes tried to persuade them not to pursue a case. When domestic violence cases did come to trial, the charge was most often for light beating, for which domestic abusers were sentenced to incarceration at a minimum security labor colony and a minimum of 120 to 180 hours of work. Sentences for more serious cases of battery, including spousal battery, ranged from 3 months' to 3 years' imprisonment; the maximum sentence for aggravated battery was 10 years' imprisonment.

The Government reported that in 2002 police had registered 2,710 domestic violence crimes, of which 2,307 were referred to courts. In 2002, 1,000 persons (including 152 women) were convicted for domestic violence crimes.

The punishment for rape, including spousal rape, ranges from 3 to 15 years' imprisonment. The Government reported that it opened 1,870 criminal rape cases in 2003, in which 1,490 convictions were obtained. The MVD stated in 2003 that spousal rape incidents increased each year for the past several years. Under the Criminal Procedure Code, procurators cannot initiate a rape case, absent aggravating circumstances such as gang rape, unless the victim files a complaint; however, once a complaint is filed, the criminal investigation cannot be dismissed if the rape victim recants or refuses to cooperate further with the investigation. This provision is intended to protect victims from coercion. In 2003, there were unconfirmed reports that procurators sometimes interpreted this provision to require rape victims to pay for forensic testing, pay the expenses of prosecution, and prosecute rape cases personally.

Prostitution is not prohibited by law; however, forced prostitution or prostitution connected to organized crime is illegal and acts facilitating prostitution, such as operating a brothel or prostitution ring, are illegal. Prostitution was a serious problem.

Trafficking in women remained a problem (see Section 5, Trafficking).

Sexual harassment remained a problem; however, the Government took no steps to address it. The law prohibits only some forms of sexual harassment, and legal and gender-issue experts regarded the legislation as inadequate to address the problem. There were reports of incidents of harassment, but in no instance was the victim protected under the law nor were cases prosecuted.

The law prohibits discrimination against women, but traditional cultural practices limited their role in society and in owning and managing businesses or property. Women were underrepresented severely in senior positions in state enterprises and overrepresented in low-paying and some menial jobs. In 2003, the head of the National Commission on Women and Family noted that women's salaries were, on average, 62 percent that of men's. Women had unrestricted access to higher education.

Children

The Government was committed to children's rights; however, budget limitations and other priorities severely limited the

Government's effectiveness in dealing with child welfare.

Education is mandatory through age 16, or the 9th grade. Primary and secondary education was both free and universal. The law provides for equal access to education by both boys and girls.

The law provides for access to public education for refugee or illegal migrant children; however, in practice, many of these children are denied access to schools or their parents do not attempt to enroll them out of fear of discovery and deportation.

The law provides for medical care to be provided to indigent children, irrespective of gender, and care was provided in practice.

There were reports of child abuse, although there was no societal pattern of such abuse.

Trafficking in girls was a problem. (see Section 5, Trafficking).

There was one local NGO that worked with juveniles released from prisons.

Trafficking in Persons

The law prohibits trafficking in persons; however, trafficking in persons remained a problem. There was no evidence of a pattern of official complicity in trafficking, although corruption amongst law enforcement officials was widespread.

Although no one provision of the law specifically prohibits trafficking in persons, several articles of the Criminal Code cover several forms of human trafficking. In July 2003, the law that criminalizes the recruitment of any person for sexual or other exploitation was expanded to include all forms of trafficking. Trafficking for exploitation is punishable by a maximum 2-year prison term; if a minor is involved, the maximum penalty increases to 5 years' imprisonment, and if the exploited person is transferred abroad, the maximum penalty is 8 years' imprisonment. The purchase or sale of a minor is a crime, punishable by up to 10 years in prison.

Prosecutions were rare, despite the fact that the Law Enforcement Coordination Council (under the leadership of the Procurator General) issued detailed guidelines in August 2003 to law enforcement and procurators nationwide on how to investigate crimes under particular sections of the Criminal Code. Despite an increase in investigations, convictions were rare due to inadequacies in criminal statutes; to prove a case of trafficking for sexual exploitation, the procurator had to show that the victim was unaware that she would be working as a prostitute.

The Ministry of Justice reported that 25 cases of trafficking in persons were investigated during the year. Of these cases, the MVD confirmed that they had undertaken 12 investigations under the trafficking for exploitation law during the year, compared to 6 cases in 2003. At year's end, three cases had resulted in criminal convictions, three were dismissed or suspended, one case was being tried, and five investigations remained ongoing. Under the article of the Criminal Code that relates to trafficking of citizens from other CIS countries, 13 investigations were launched, resulting in 9 trials and 6 traffickers convicted. Several arrests were made in connection with these investigations, many of which were reported in the press.

Procurators used articles of the Criminal Code such as those concerning illegal prostitution and kidnapping to charge suspects whose activities may have included trafficking. Several victims of trafficking lost a civil suit against a travel agency, which recruited them into trafficking, for breach of contract during 2003; however, the civil trial led to the arrest for trafficking for exploitation of the woman who ran the travel agency, and criminal charges were filed against her.

The Minister of Justice coordinated all of the Government's antitrafficking activities. During the year, an antitrafficking Commission led by the Minister that included the Internal Affairs Minister, the KNB Chairman, the Procurator General, the Foreign Minister, Education Minister, and the Presidential Commission on Women and Family developed a comprehensive National Plan to combat trafficking. Also during the year, an interagency working group drafted, in consultation with NGOs and international organizations, a set of amendments to the Criminal and Administrative codes to specifically address legislative gaps in the fight against trafficking in persons. At the end of the year, executive agencies had approved the amendments, which were scheduled for a May 2005 parliamentary vote.

The Government sought cooperation with authorities in both destination countries where its citizens were trafficked and in source countries of victims brought into the country. In 2003, the Ministry of Foreign Affairs issued instructions to its Embassies abroad to assist victims of trafficking. During the year, pursuant to the country's National Plan to Combat Trafficking in Persons, consular officers at the country's embassies abroad were given further directions on providing nonmonetary assistance in repatriation of trafficking victims. During the first 6 months of the year, the country's embassies helped 16 victims return to the country. There were no cases in which the Government was asked to extradite a person charged with trafficking in another country.

The country was a source, transit, and destination country for victims of trafficking. Internal trafficking was also a problem. No reliable statistics were available on the number of victims each year, but NGOs estimated there were several thousand. Many NGOs reported an increase in victims over the past year, which may be attributed to more awareness of the problem. Through

its antitrafficking program, the International Organization of Migration (IOM) registered 173 victims of trafficking, 86 of whom were trafficked abroad, 40 to the country, and 38 who were transiting the country. The IOM estimated an average of 5,000 citizens were trafficked per year. Individuals were trafficked to the United Arab Emirates, South Korea, Turkey, Greece, Cyprus, Western Europe, Israel, Russia, and Syria. They were trafficked from the Kyrgyz Republic, Uzbekistan, and Tajikistan.

Traffickers primarily targeted young women in their teens and 20s. According to NGOs, most women were recruited with promises of good jobs or marriage abroad. Travel, employment, and marriage agencies often recruited victims through advertisements promising lucrative jobs abroad. Offers to participate in international beauty contests also were used. Previously trafficked women reportedly recruited new victims personally.

There was also evidence that young and middle-aged men were trafficked from the country, either for sexual exploitation or for labor. On September 26, Astana TV reported on a group of 100 Uzbek workers trafficked in early spring to work at a farm near Astana. According to one of the victims, the workers were trafficked by an organized criminal channel operating in Astana. The employers and their trafficker accomplices usually held the trafficked workers' passports during their stay in the country.

Many trafficking victims appeared to be aware or at least to suspect that they were going to work as prostitutes, but not that they would be working in slavery like conditions. Most trafficked persons traveled to their destinations on forged passports obtained abroad, most often from Russia or the Kyrgyz Republic.

There was no evidence of a pattern of official complicity with trafficking, although corruption of law enforcement officials was widespread. In some instances, airport border guards may have taken bribes to facilitate travel of trafficked women. In Taraz, an employee of the local procurator's office was convicted of trafficking for exploitation, but received a light sentence. An NGO providing assistance to the victim reported receiving anonymous death threats related to the case.

The Government provided material assistance and physical protection to trafficked women who returned to the country in very limited circumstances; however, NGOs ran crisis support centers, under Memoranda of Understanding with the Government, that provided legal and material assistance and counseling. In some cases, the Government provided NGOs with reduced rate leases and other support. The Government enjoyed a good working relationship with NGOs in efforts to combat trafficking and assist victims, though financial funding is limited as there are no separate funds earmarked for trafficking victims.

Trafficking victims from other countries were often fined and deported if they entered the country illegally. There are no special provisions in the law to treat foreign victims of trafficking differently than illegal migrants. However, NGOs working with foreign trafficking victims reported government cooperation, in terms of providing administrative support for repatriation.

The IOM, in conjunction with 19 NGOs across the country, continued an information campaign on the dangers of trafficking and maintained victim hotlines. The MOJ maintained additional hotlines nationwide for trafficking victims to report crimes and to receive information. The MVD's Gender Crimes Division provided instruction to its units around the country on recognizing trafficking cases. MVD coordinated trafficking in persons training for officers around the country with experts from IOM.

The Procurator General's Office enforced mandatory licensing for tourist agencies and conducted inspections throughout the year to uncover agencies involved in trafficking. Many criminal cases launched originated as a result of these inspections.

The Government continued airing a series of public service announcements provided by international organizations. Some privately owned media outlets ran the series as well. During the year, the Government encouraged publicizing and reporting on antitrafficking efforts. In most regions of the country, NGOs reported that local officials and law enforcement were willing participants in training programs on trafficking and that officials have provided access to schools for the same purpose. The Government also supported training programs for judges and procurators on dealing with trafficking cases. During the summer, NGOs conducted training for public relations departments of procurators' offices, including a component on publicizing investigation and prosecution of traffickers.

The Ministry of Education reported that curriculum of all high schools and universities added trafficking awareness segments to be taught within The Basic Elements of the Law courses. According to the Ministry of Education, most universities set up information and analysis centers that will deal with trafficking awareness issues, among other topics.

The Ministry of Culture, Information, and Sports produced materials on trafficking that government-run media were required to cover in their reporting. The materials included details of antitrafficking efforts by government agencies, information on hotlines, analysis of risks for those offered a job abroad, and stories of families whose trafficked relatives never returned home. These publications also covered successful investigations of crimes and were designed to build trust with law enforcement. The Ministry of Culture, Information, and Sports encouraged all media outlets to carry publications on trafficking issues.

Persons with Disabilities

There was discrimination against persons with disabilities in employment, education, access to healthcare, and in the provision of other state services. The law mandates access to buildings for persons with disabilities; however, the Government did not enforce it. There were some improvements to facilitate access in Almaty and Astana, such as wheelchair ramps. Although

citizens with disabilities were entitled by law to government assistance, assisting persons with disabilities was a low priority for the Government.

Mentally ill and mentally handicapped citizens could be committed to state-run institutions, which were poorly managed and inadequately funded. Citizens with mental handicaps could be committed to institutions without their consent or judicial review; however, in practice, persons were generally committed at a young age by their families. The NGO KIBHR observed that the Government provided almost no care for persons with mental disabilities due to a lack of funds.

National/Racial/Ethnic Minorities

According to the Government, the population consisted of approximately 54 percent Kazakhs and 40.4 percent ethnic Slavs (Russians, Ukrainians, Belarusians, and others), with many other ethnic groups, including Uzbeks, Germans, Tatars, Uighurs, Koreans, Azeris, Turks, and others represented. The Government continued to discriminate in favor of ethnic Kazakhs in senior government employment (see Section 3).

According to the Constitution, the Kazakh language is the official state language, although it also states Russian may be used officially on an equal basis with Kazakh in organizations and bodies of local self-administration. Most ethnic Russians believed that Russian should be designated as a second state language. The Language Law was intended to strengthen the use of Kazakh without infringing on the rights of citizens to use other languages; however, the Government had insufficient funding available to make Kazakh-language education universal. The Government encouraged education of children in the Kazakh language but did little to provide Kazakh-language education for adults.

Other Societal Abuses And Discrimination

Although there were no press reports or official statistics on sexual orientation discrimination, there were some unconfirmed reports of discrimination based upon sexual orientation. Human rights observers reported incidents of abuse against injection drug users and sex workers, which they felt impeded access to HIV prevention services.

Section 6 Worker Rights

a. The Right of Association

The law provides for the right to organize and form unions freely; in practice, however, the Government restricted the exercise of this right, with the result that most workers were not able to join or form trade unions of their choice. The Government exercised considerable influence over organized labor and favored state-affiliated unions over independent unions.

The largest trade union association, the Federation of Trade Unions (FTU), contained the vestiges of formerly state-sponsored trade unions established during the Soviet period, and remains affiliated with the state in practice. Two other trade union associations, the Confederation of Free Trade Unions of Kazakhstan (CFTUK) and the Trade Union Center of Kazakhstan, also represented significant portions of unionized workers. At least one third of the workforce is unionized.

To obtain legal status, a trade union had to apply for registration with the MOJ. The registration procedure followed largely that of other membership organizations (see Section 2.b.); branches of unions were each required to register at MOJ branches in each region in which they were active. The MOJ did not deny registration to any union during the year. Courts can cancel a union's registration; however, there were no such cases during the year. Unions must have a minimum of 10 members.

The Constitution prohibits the operation of foreign trade unions and prohibits the financing of trade unions by foreign legal entities and citizens, foreign states, and international organizations.

Under the Constitution, workers are protected against antiunion discrimination; however, in practice, there were violations of this right. Members of some trade unions have been dismissed, transferred to lower paying or lower status jobs, threatened, and intimidated. Trade union leaders have reported that some workers who were ostensibly fired for other reasons were actually fired in retaliation for union activity; however, there were no court cases filed on this basis during the year.

b. The Right to Organize and Bargain Collectively

The law permits collective bargaining and collective agreements; and trade unions and associations engaged in collective bargaining in practice. Collective bargaining agreements were allowed as long as they did not reduce protections afforded to workers in individual contracts or under law. Trade union associations gave widely varying estimates of the percentage of member unions that had negotiated collective bargaining agreements.

If a union's demands were not acceptable to management, the union could present those demands to a tripartite commission, composed of the Government, employer associations, and labor union representatives. The tripartite commission is responsible for developing and signing annual agreements governing approximately 80 aspects of labor relations. The Labor Law provides

for an individual contract between employers and each employee.

The Constitution provides for the right to strike, but exercising this right is subject to numerous legal limitations, such as a prohibition of strikes at workplaces that operate around the clock; there was a list of enterprises providing essential services where strikes were not permitted. A few unions and individual workers exercised the right to strike during the year, primarily to protest the nonpayment of wages and to recover back wages. According to the law, workers may strike only if a labor dispute has not been resolved through existing compulsory arbitration procedures. In addition, the law requires that employers be notified that a strike is to occur no less than 15 days before it commences. In December, amendments to the labor code removed the explicit right of employers to break a union and fire employees because they had participated in an illegal strike.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, except at the sentence of the court or in the conditions of a state of emergency or martial law, but there were reports that such practices occurred (see Section 5, Trafficking).

d. Prohibition of Child Labor and Minimum Age for Employment

The minimum age for employment is 16 years; however, 15-year-olds may work without restriction if they have completed compulsory education, and 14 year-olds may work with parental permission if jobs do not interfere with education or pose a health risk.

Children between 14 and 16 years can only work with parental permission. The law stipulates harsh punishment for employers who exploit children under the age of 16. The Ministry of Labor is responsible for enforcement of child labor laws and for administrative offenses punishable by fines; the MVD is responsible for criminal offenses. Child labor was used routinely in agricultural areas, especially during harvest season; but abuse of child labor generally was not a problem.

e. Acceptable Conditions of Work

The national monthly minimum wage of \$36.76 (5,000 KZT) did not provide a decent standard of living for a worker and family; however, it was common for working class families to have more than one wage earner and most workers earned above minimum wage in urban areas. The monthly minimum wage was slightly below the minimum subsistence wage of \$37.70 (5,128 KZT).

The Law stipulates the normal workweek should not exceed 40 hours. The Law limits heavy manual labor or hazardous work to no more than 36 hours a week, and requires overtime to be paid at a rate of no less than one-and-a-half times normal wages for hours over the normal workweek. The Law requires that overtime not exceed 2 hours in a calendar day or 1 hour a day for heavy manual labor. Overtime is prohibited for work in hazardous conditions. The Law provides that labor agreements may stipulate the length of working time, vacation days, holidays, and paid annual leave for each worker.

In December, the Government passed several labor code amendments intended to strengthen worker protections, including expanded rights for pregnant women, women with small children, and employees suffering from temporary disability.

The Ministry of Labor enforced minimum wages, work hour restrictions, and limits on overtime established under the Labor Law. Ministry labor inspectors conducted random inspections of employers to enforce all laws and regulations under their purview. In spite of these random inspections, labor advocates reported that some employers regularly violated these laws.

The Constitution provides for the right to safe and hygienic working conditions; however, working and safety conditions in the industrial sector were often substandard. Workers in factories usually did not have protective clothing, such as goggles and hard hats, and worked in conditions of poor visibility and ventilation.

On February 27, a Law on Safety and Protection of Labor was enacted, which places increased legal responsibility on employers for injuries and deaths in the workplace. Management largely ignored regulations concerning occupational health and safety, which were not well enforced by the Ministry of Labor. In August, the Ministry reported a staff of over 400 inspectors. Although the frequency of inspections remained insufficient to provide fully for occupational health and safety, the number of fines, penalties, and warnings to employers increased. According to a news report, 315 persons were killed in 2003 due to unsafe working conditions, compared to 355 persons in 2002. The mining and metallurgy industry produced the highest number of occupational casualties, followed by the construction industry.

The Labor Law requires employers to suspend work where its continuation could endanger the life or health of workers and to warn workers about any harmful and dangerous work conditions and about the possibility of any occupational disease. Although the Law does not specifically grant the right of workers to remove themselves from situations that endanger their health or safety without jeopardy to their employment, this right is considered to be implied by general legal provisions on worker safety, and workers' inability to refuse to work under unsafe work conditions was not a problem in practice. The Chairman of the

Constitutional Council stated at a February conference that there were 115,234 violations of labor legislation in 2003, compared with 107,000 violations of labor legislation in 2002.